

REMARKS

Claims 21-31 are pending. Claims 21 and 27 are amended. Claims 32 and 33 are new. No new matter is submitted. Accordingly, entry and consideration of the Amendment is respectfully requested.

This Amendment is submitted in response to the Final Office Action mailed September 28, 2005, in order to request reconsideration of the rejection of claims 21-31 as set forth herein. In the event the Examiner determines that the foregoing amendments do not place this application in condition for allowance, entry of the Amendment is nevertheless requested in order to place the claims in better form for consideration on appeal, should an appeal of this matter be pursued.

In the Office Action, claims 21-31 are rejected under 35 U.S.C. 103(a) as allegedly unpatentable over U.S. Patent No. 6,224,593 to Ryan, et al. (hereafter "Ryan") in view of U.S. Patent No. 5,190,541 to Abele, et al. (hereafter "Abele"). The rejection is respectfully traversed.

Applicants' claim 1 recites a surgical device comprising, *inter alia*, a tubular shaft having an internal lumen, a slot, and a dissecting tip at a distal end thereof, the dissecting tip having a cross-section that narrows from a first location to a second location distal to the first location. The device further comprises a hook member in communication with the slot, a clamp slidingly disposed in the slot and having a clamping surface at a distal end to capture tissue between the hook member and the clamping surface, and at least one electrode for applying RF energy to the tissue captured in the slot. The dissecting tip facilitates the capturing of a vessel in the slot. (Specification, page 14, lines 1-4). Applicants' claim 27 recites a surgical device comprising, *inter alia*, a tubular shaft having an internal lumen, a slot, and a dissecting tip, the dissecting tip having a cross-section that narrows from a first location to a second location distal to the first location. The device of claim 27 further recites a hook member in communication with the slot,

the hook member having at least one electrode for applying RF energy to tissue captured in the slot, and a clamp slidingly disposed at a distal end to capture the tissue in the slot between the hook member and the clamping surface. The sloped dissecting tip facilitates the capturing of a vessel in the slot (Specification, page 14, lines 1-4). New claims 32 and 33 further recite the dissecting tip as comprising a surface that slopes from the first location to the second location.

Ryan discloses a microwave instrument 12 including an elongate member or chassis 18, an extension 32 comprised of a longitudinal portion 34 extending from a distal end of the elongate member or chassis 18, and a tissue capturing portion 36 extending generally transverse to the longitudinal portion 34 of the extension 32 at the distal end thereof. Ryan thus fails to disclose or suggest a dissecting tip that narrows from a first location to a second location distal to the first location, which facilitates the capturing of a vessel in the slot, as recited in each of independent claims 21 and 27 of Applicants' invention.

Abele discloses a laparoscopic instrument 10 having a shaft 12 with a J-hook member 16 at its distal end. The J-hook member 16 is formed by leg 40 that extends beyond the shaft 12, a cross-member 42 that extends from the leg 40 to form a ledge 62, and a tip 44 that returns proximally from the cross-member 42 (col. 4, lines 9-24 & Fig. 2) for hooking the intended vessel. Thus, Abele does not have a dissecting tip as recited in independent claims 21 and 27 of Applicants' invention, from one of which all other claims depend. Abele thus fails to overcome the deficiencies of Ryan in at least this regard.

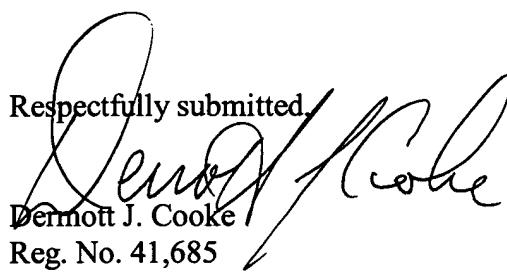
Thus, neither Ryan nor Abele, singly or in combination, teach, disclose or suggest the combination of features recited in independent claims 21 and 27 of Applicants' invention, from which all other claims depend. Accordingly, withdrawal of the 35 U.S.C. 103(a) rejection of claims 21-31 based on the combination of Ryan and Abele is respectfully requested.

Applicants submit that claims 21-33 are patentable in view of the amendments and Remarks made herein. Accordingly, prompt examination and allowance of claims 21-33 is respectfully solicited.

Should the Examiner determine that anything further is desirable to place this application in even better form for Allowance, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Dermott J. Cooke".

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